

Applicant : Julio Casanova
Appln. No. : 10/789,858
Page : 2

REMARKS

Claims 1-41 are pending in the present application. Reconsideration is respectfully requested for the following reasons.

As an initial matter, Applicant submits that the finality of the present Office Action is improper as unamended claims have been newly rejected. In the prior Office Action, claims 21 and 41 were rejected as being unpatentable over U.S. Patent No. 5,957,358 to Getz et al. in view of Official Notice, were rejected as being unpatentable over what Applicant believes to be PCT Publication WO 01/98171 to Miller in view of U.S. Patent No. 6,253,920 to Källgren, the Getz '358 patent and Official Notice, and what Applicant believes to be a combination of U.S. Design Patent No. D479,126 to Kumakura et al. in view of the Källgren '920 patent, the Getz '358 patent and Official Notice. In Applicant's previous response, claims 21 and 41 were not amended, they were only rewritten into independent form. In the present Office Action, claims 21 and 41 have been rejected as being unpatentable over the Miller '171 publication in view of the Källgren '920 patent, the Getz et al. '358 patent and U.S. Patent No. 3,743,084 to Douglas and as being unpatentable over the Kumakura et al. '126 patent in view of the Källgren '920 patent, the Getz et al. '358 patent and the Douglas '084 patent. Accordingly, claims 21 and 41 have been rejected in the current Office Action using the newly cited Douglas '084 patent, and such new rejection was not necessitated by any amendment. While the Examiner has stated that she does not give interviews after final rejections, Applicant respectfully requests an interview of this case once the Examiner receives Applicant's response and if the Examiner agrees with the Applicant that this case was improperly finally rejected.

Claims 1-14, 19, 20, 22-34, 39 and 40 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirements. According to the Office Action, "the shrink wrapped cover may provide wrapping only to the top, front, rear and bottom surfaces and render the side surfaces open for removal of the module." The Office Action then states that "the new language introduced by Applicant is considered new matter is (sic) and is not permitted in the specification or claims." However, in paragraph [0027] of the present application, the present description clearly states that "[i]n the illustrated example, the cover 14 covers all six sides of the engaged modules 12." Accordingly, Applicant submits that

Applicant : Julio Casanova
Appln. No. : 10/789,858
Page : 3

there is a written description for the subject matter of all of the claims. Therefore, Applicant submits that claims 1-14, 19, 20, 22-34, 39 and 40 comply with the written description requirement.

Claims 1-14, 19, 20, 22-34, 39 and 40 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. This rejection appears to correspond with the written description rejection of the claims as discussed above. However, Applicant submits that there is a written description for the subject matter of these claims and that the same are definite. Accordingly, Applicant submits that claims 1-14, 19, 20, 22-34, 39 and 40 are definite as presently written.

Claims 1, 3, 4, 6-11, 13, 14, 20, 23, 24, 26-31, 33, 34 and 40 have been rejected under 35 U.S.C. §103(a) as being unpatentable over PCT Publication No. WO 01/98170 to Casanova in view of U.S. Patent No. 3,743,084 to Douglas and/or U.S. Patent No. 6,253,920 to Källgren. The requirements for making a *prima facie* case of obviousness are described in MPEP §2143 as follows:

In order to establish a *prima facie* case of obviousness, three criteria must be met. M.P.E.P. § 706.02(j). Firstly, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *In re Fine*, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). Secondly, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Thirdly, the prior art reference (or references) must teach or suggest all the claim limitations. *In re Royka*, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

Applicant : Julio Casanova
Appln. No. : 10/789,858
Page : 4

In proceedings before the Patent and Trademark Office, the Examiner bears the burden of establishing a prima facie case of obviousness based upon the prior art. *In re Fritch*, 23 USPQ 2d 1780, 1783 (Fed. Cir. 1992); M.P.E.P. §2142. Applicant respectfully asserts that the Examiner has not yet met the Examiner's burden of establishing a prima facie case of obviousness with respect to the rejected claims. Consequently, the Examiner's rejection of the subject claims is inappropriate, and should be withdrawn.

Applicant notes as an initial matter that it is difficult to respond to the present Office Action as Applicant is not able to determine how the references are combined to reject the cited claims. Notably, the Office Action only states what the three references are purported to include and does not state how these three references are combined. Namely, the Office Action does not state how the Douglas '048 patent is combined with the Casanova '017 publication, how the Källgren '920 patent is combined with the Casanova '017 publication, or how both the Douglas '048 patent and the Källgren '920 patent are combined with the Casanova '017 publication. Specifically, the Office Action has not set forth the proposed modification of the applied references necessary to arrive at the claimed subject matter as required by MPEP §706.02(j). Applicant further submits that this deficiency applies to all of the rejections of the claims in the Office Action. Accordingly, Applicant submits that the Office Action has not set forth a prima facie rejection of the claims. Nevertheless, Applicant will attempt to respond to the rejections set forth in the Office Action.

Claim 1 defines a battery package comprising at least two separate modules. Each module includes a base having a first face and a second face, at least one pocket extending outwardly from the first face, at least one battery placed into each pocket and a cover placed over the at least two separate modules. Two of the at least two separate modules have the first faces thereof facing each other. At least one pocket of a first one of the two of the at least two separate modules is located between a pair of pockets of a second one of the two of the at least two separate modules. The at least two separate modules will easily separate upon removal of the cover from over the at least two separate modules. None of the modules are able to be removed from within the cover while the cover is over all of the at least two separate modules.

Applicant : Julio Casanova
Appln. No. : 10/789,858
Page : 5

The prior art of record does not disclose or suggest the above noted features of claim 1. Applicant submits that there is no suggestion or motivation to combine the references as set forth in the Office Action and that the cited references do not teach or suggest all of the claim limitations. As an initial matter, Applicant submits that the Casanova '017 publication does not allow for at least one pocket of a first one of at least two separate modules being located between a pair of pockets of the second one of at least two separate modules. However, as the Office Action has not clearly set forth how the references are combined, Applicant reserves the right to readdress this point once a further Office Action outlines how the references are combined.

The present rejection of the claims appears to include three separate rejections: (1) the Casanova '017 publication in view of the Douglas '084 patent; (2) the Casanova '017 publication in view of the Källgren '920 patent; and (3) the Casanova '017 publication in view of the Douglas '084 patent and the Källgren '920 patent.

In regard to the rejection of the claims as being patentable over the Casanova '017 publication in view of the Douglas '084 patent, while Applicant is unable to ascertain how these references are combined, a combination of these two references clearly will not include all of the subject matter of claim 1. Neither of these references include at least two separate modules. First, the Casanova '017 publication does not include at least two modules. Second, the Douglas '084 patent includes holding units or assemblages 50 and 60 that are connected by a linking panel 42 and units 80 and 90 that are connected by linking panel 76. Accordingly, the Douglas '084 patent does not include at least two separate modules. Therefore, a combination of these two references will not include at least two separate modules that will easily separate upon removal of a cover from over the at least two separate modules.

Moreover, a combination of these two references will not include a feature that none of the modules are able to be removed from within the cover while the cover is over all of the at least two separate modules. The Douglas '048 patent states in line 60 of column 5 and lines 1-5 of column 6 that paired commodity holding units can be held together by shrink wrap, overwrap or band wrap. However, each paired unit cannot be considered to be a separate module as defined in the claims as the claims require that two of the at least two separate

Applicant : Julio Casanova
Appln. No. : 10/789,858
Page : 6

modules have first faces thereof facing each other, with at least one pocket of a first one of the two of the at least two separate modules being located between a pair of pockets of a second one of the two of the at least two separate modules. Since one of the paired units will not include a pocket being located between a pair of pockets on a second one of the paired units, each paired unit cannot be seen as a separate module. Accordingly, for the Douglas '084 patent to include subject matter that reads on claim 1, one of the paired units itself would have to be separate. However, the references teach away from the paired units being separate according to the combination as set forth in the Office Action. As set forth in the Office Action, "it would have been obvious to an artisan at the time the invention was created to utilize this application to store more articles in a packed and secured manner." However, the Douglas '048 patent states in the background of the invention that if the units 50 and 60 or 80 and 90 were separate, the compact and secure manner of the invention of the Douglas '048 patent "would not be made use of." See lines 48-63 of column 1. Accordingly, the Douglas '048 patent teaches away from any combination where the units 50 and 60 or the units 80 and 90 are separate. Therefore, the Douglas '048 patent expressly teaches that the units must not be separate. Finally, the cover 10 or cover 70 allow the modules to be removed from within the cover. Notably, the covers 10 and 70 of the Douglas '048 patent includes a side surface open for removal of the units. As set forth in the 35 U.S.C. §112, first paragraph, rejection in the Office Action, having one side surface for removal of a unit does not comprise a situation where none of the units are able to be removed from within the cover while the cover is over all of the units. Accordingly, the Office Action implicitly admits that the covers 10 and 70 of the Douglas '084 patent could not read on claim 1.

In regard to the rejection of claim 1 over the Casanova '017 publication in view of the Källgren '920 patent, any resulting combination would not include at least two separate modules as everything in the Källgren '920 patent is connected together. Accordingly, the Källgren '920 patent does not include any elements that are separate, much less two separate modules. Moreover, the Källgren '920 patent states that the blister packs 1 can be placed in a package which is openable from one end surface or side wall, and that one blister pack can be pulled out of the package without pulling along other blister packs packed in the package. See

Applicant : Julio Casanova
Appln. No. : 10/789,858
Page : 7

lines 66 and 67 of column 2 and lines 1-3 of column 3. Accordingly, the Källgren '920 patent does not expressly or necessarily teach that none of the modules are able to be removed from within a cover while the cover is over at least two modules as claimed in claim 1.

Finally, a combination of all three of the references include all of the deficiencies as outlined above. Accordingly, claim 1 is in condition for allowance.

Claims 3, 4, 6-11, 13, 14 and 20 depend from claim 1, and since claim 1 defines unobvious patentable subject matter as discussed above, claims 3, 4, 6-11, 13, 14 and 20 define patentable subject matter. Furthermore, claim 3 states that each module includes a lid over a second face of a base and claim 4 states that the lid is transparent. Moreover, claim 6 depends from claim 3 and defines a card positioned over the lid and the second face of the module and claim 7 further includes a card positioned over a second face of each module. While the Office Action states that the Casanova '017 publication includes a transparent lid 36 and a card 14, it does not appear that either of these elements will be included in the combination as set forth in the Office Action. Accordingly, if the elements 14 and 36 of the Casanova '017 publication are included in the combination as set forth in the Office Action, Applicant respectfully requests the Examiner to outline how such features would be included in the combination. Moreover, claim 10 states that each of the modules are identical and claim 11 states that each module includes only four pockets. However, any combination of the references as set forth in the Office Action would not include these features. Notably, the units having elongated articles in Fig. 6 of the Douglas '048 patent and the packs in the Källgren '920 patent have different numbers of blisters. Additionally, the Källgren '920 patent specifically teaches away from rows of blisters having the same number of blisters. See lines 50-67 of column 1 and lines 1-3 of column 2 of the Källgren '920 patent (e.g., "a stack of such blister packs [i.e., identical blister packs] will present free edges, which can easily be damaged during handling or transport"). Accordingly, there is no suggestion or motivation for combining the references that would result in the subject matter of claims 10 and 11. Accordingly, claims 3, 4, 6-11, 13 14 and 20 are in conditon for allowance.

While claims 23, 24, 26-31, 33 and 34 and 40 have been rejected as being unpatentable over the Casanova '017 publication in view of the Douglas '084 patent and/or the Källgren

Applicant : Julio Casanova
Appln. No. : 10/789,858
Page : 8

‘920 patent, each of these claims depend from claim 22, which has not been rejected over these references. Accordingly, Applicant submits that claims 23, 24, 26-31, 33, 34 and 40 are patentable over the Casanova ‘017 publication in view of the Douglas ‘084 patent and/or the Källgren ‘920 patent as set forth in the Office Action as their independent claim is patentable over these references as set forth in the Office Action. Nevertheless, Applicant submits that all of these claims define patentable subject matter. Accordingly, claims 23, 24, 26-31, 33, 34 and 40 are in conditon for allowance.

Claims 2, 12 and 32 have been rejected under 35 U.S.C. §103(a) as being unpatentable over “the references applied above with respect to claims 1 and 22” further in view of Official Notice. First, claims 2 and 12 depend from claim 1, and since claim 1 defines unobvious patentable subject matter as discussed above, claims 2 and 12 define patentable subject matter. Second, in regard to claim 32, claim 32 depends from claim 22, which has not been rejected in paragraph 4 as set forth in the Office Action. Accordingly, claim 32 defines patentable subject matter. Moreover, both claims 12 and 32 state that each module includes only five pockets. As discussed above in regard to claims 10 and 11, the prior art of record teaches away from any combination where modules include the same number of pockets. Furthermore, Applicant would like to point to the discussion in the Källgren ‘920 patent for reasons while each module having only five pockets would render the combination ineffective. Accordingly, claims 2, 12 and 32 are in conditon for allowance.

Claims 1, 3-5, 10, 11, 13, 14, 19, 20, 22-25, 30, 31, 33, 34, 39 and 40 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Design Patent No. D479,126 to Kumakura et al. in view of the Douglas ‘084 patent and/or the Källgren ‘920 patent. The standard for rejecting a claim as being obvious is outlined above.

The prior art of record does not disclose or suggest the above noted features of claim 1. Applicant submits that there is no suggestion or motivation to combine the references as set forth in the Office Action and that the cited references do not teach or suggest all of the claim limitations. As an initial matter, Applicant submits that the Kumakura et al. ‘126 patent does not allow for at least one pocket of a first one of at least two separate modules being located between a pair of pockets of the second one of at least two separate modules.

Applicant : Julio Casanova
Appln. No. : 10/789,858
Page : 9

The present rejection of the claims appears to include three separate rejections: (1) the Kumakura et al. '126 patent in view of the Douglas '084 patent; (2) the Kumakura et al. '126 patent in view of the Källgren '920 patent; and (3) the Kumakura et al. '126 patent in view of the Douglas '084 patent and the Källgren '920 patent.

In regard to the rejection of the claims as being patentable over the Kumakura et al. '126 patent in view of the Douglas '084 patent, while Applicant is unable to ascertain how these references are combined, a combination of these two references clearly will not include all of the subject matter of claim 1. Neither of these references include at least two separate modules. First, the Kumakura et al. '126 patent does not include at least two modules. Second, the Douglas '084 patent includes holding units or assemblages 50 and 60 that are connected by a linking panel 42 and units 80 and 90 that are connected by linking panel 76. Accordingly, the Douglas '084 patent does not include at least two separate modules. Therefore, a combination of these two references will not include at least two separate modules that will easily separate upon removal of a cover from over the at least two separate modules.

Moreover, a combination of these two references will not include a feature that none of the modules are able to be removed from within the cover while the cover is over all of the at least two separate modules. The Douglas '048 patent states in line 60 of column 5 and lines 1-5 of column 6 that paired commodity holding units can be held together by shrink wrap, overwrap or band wrap. However, each paired unit cannot be considered to be a separate module as defined in the claims as the claims require that two of the at least two separate modules have first faces thereof facing each other, with at least one pocket of a first one of the two of the at least two separate modules being located between a pair of pockets of a second one of the two of the at least two separate modules. Since one of the paired units will not include a pocket being located between a pair of pockets on a second one of the paired units, each paired unit cannot be seen as a separate module. Accordingly, for the Douglas '084 patent to include subject matter that reads on claim 1, one of the paired units itself would have to be separate. However, the references teach away from the paired units being separate according to the combination as set forth in the Office Action. As set forth in the Office Action, "it would have been obvious to an artisan at the time the invention was created to

Applicant : Julio Casanova
Appln. No. : 10/789,858
Page : 10

utilize this application to store more articles in a packed and secured manner.” However, the Douglas ‘048 patent states in the background of the invention that if the units 50 and 60 or 80 and 90 were separate, the compact and secure manner of the invention of the Douglas ‘048 patent “would not be made use of.” See lines 48-63 of column 1. Accordingly, the Douglas ‘048 patent teaches away from any combination where the units 50 and 60 or the units 80 and 90 are separate. Therefore, the Douglas ‘048 patent expressly teaches that the units must not be separate. Finally, the cover 10 or cover 70 allow the modules to be removed from within the cover. Notably, the covers 10 and 70 of the Douglas ‘048 patent includes a side surface open for removal of the units. As set forth in the 35 U.S.C. §112, first paragraph rejection in the Office Action, having one side surface for removal of a unit does not comprise a situation where none of the units are able to be removed from within the cover while the cover is over all of the units. Accordingly, the Office Action implicitly admits that the covers 10 and 70 of the Douglas ‘084 patent could not read on claim 1.

In regard to the rejection of claim 1 over the Kumakura et al. ‘126 patent in view of the Källgren ‘920 patent, any resulting combination would not include at least two separate modules as everything in the Källgren ‘920 patent is connected together. Accordingly, the Källgren ‘920 patent does not include any elements that are separate, much less two separate modules. Moreover, the Källgren ‘920 patent states that the blister packs 1 can be placed in a package which is openable from one end surface or side wall, and that one blister pack can be pulled out of the package without pulling along other blister packs packed in the package. See lines 66 and 67 of column 2 and lines 1-3 of column 3. Accordingly, the Källgren ‘920 patent does not expressly or necessarily teach that none of the modules are able to be removed from within a cover while the cover is over at least two modules as claimed in claim 1.

Finally, a combination of all three of the references include all of the deficiencies as outlined above. Accordingly, claim 1 is in condition for allowance.

Claims 3-5, 10, 11, 13, 14, 19 and 20 depend from claim 1, and since claim 1 defines unobvious patentable subject matter as discussed above, claims 3-5, 10, 11, 13, 14, 19 and 20 define patentable subject matter. Furthermore, claim 4 states that the lid is transparent. While the Office Action states that the Kumakura et al. ‘126 patent includes a lid, the Kumakura et al.

Applicant : Julio Casanova
Appln. No. : 10/789,858
Page : 11

‘126 patent does not disclose any transparent lid. Moreover, claim 10 states that each of the modules are identical and claim 11 states that each module includes only four pockets. However, any combination of the references as set forth in the Office Action would not include these features. Notably, the units having elongated articles in Fig. 6 of the Douglas ‘048 patent and the packs in the Källgren ‘920 patent have different numbers of blisters. Additionally, the Källgren ‘920 patent specifically teaches away from rows of blisters having the same number of blisters. See lines 50-67 of column 1 and lines 1-3 of column 2 of the Källgren ‘920 patent (e.g., “a stack of such blister packs [i.e., identical blister packs] will present free edges, which can easily be damaged during handling or transport”). Accordingly, there is no suggestion or motivation for combining the references that would result in the subject matter of claims 10 and 11. Accordingly, claims 3-5, 10, 11, 13, 14, 19 and 20 are in condition for allowance.

Claim 22 defines a method of packaging batteries comprising providing at least two separate modules. Each module includes a base having a first face and a second face. Each module further includes at least one pocket extending outwardly from the first face, placing at least one battery in each pocket and positioning the first face of at least two of the plurality of separate modules facing each other. At least one pocket of a first one of the at least two of the at least two separate modules is located between a pair of pockets of a second one of the at least two of the at least two separate modules. A cover is placed over the at least two separate modules wherein none of the modules are able to be removed from within the cover while the cover is over all of the at least two separate modules.

The prior art of record does not disclose or suggest the above noted features of claim 22. Applicant submits that there is no suggestion or motivation to combine the references and that the cited references do not teach or suggest all of the claim limitations as set forth in the Office Action. Notably, Applicant submits that the Kumakura et al. ‘126 patent does not allow for at least one pocket of a first one of at least two separate modules being located between a pair of pockets of the second one of at least two separate modules.

The present rejection of the claims appears to include three separate rejections: (1) the Kumakura et al. ‘126 patent in view of the Douglas ‘084 patent; (2) the Kumakura et al. ‘126

Applicant : Julio Casanova
Appln. No. : 10/789,858
Page : 12

patent in view of the Källgren '920 patent; and (3) the Casanova '017 publication in view of the Douglas '084 patent and the Källgren '920 patent.

In regard to the rejection of the claims as being patentable over the Kumakura et al. '126 patent in view of the Douglas '084 patent, a combination of these two references clearly will not include all of the subject matter of claim 22. Neither of these references include at least two separate modules. First, the Kumakura et al. '126 patent does not include at least two modules. Second, the Douglas '084 patent includes holding units or assemblages 50 and 60 that are connected by a linking panel 42 and units 80 and 90 that are connected by linking panel 76. Accordingly, the Douglas '084 patent does not include at least two separate modules. Therefore, a combination of these two references will not include at least two separate modules that will easily separate upon removal of a cover from over the at least two separate modules.

Moreover, a combination of these two references will not include a feature that none of the modules are able to be removed from within the cover while the cover is over all of the at least two separate modules. The Douglas '048 patent states in line 60 of column 5 and lines 1-5 of column 6 that paired commodity holding units can be held together by shrink wrap, overwrap or band wrap. However, each paired unit cannot be considered to be a separate module as defined in the claims as the claims require that two of the at least two separate modules have first faces thereof facing each other, with at least one pocket of a first one of the two of the at least two separate modules being located between a pair of pockets of a second one of the two of the at least two separate modules. Since one of the paired units will not include a pocket being located between a pair of pockets on a second one of the paired units, each paired unit cannot be seen as a separate module. Accordingly, for the Douglas '084 patent to include subject matter that reads on claim 22, one of the paired units itself would have to be separate. However, the references teach away from the paired units being separate according to the combination as set forth in the Office Action. As set forth in the Office Action, "it would have been obvious to an artisan at the time the invention was created to utilize this application to store more articles in a packed and secured manner." However, the Douglas '048 patent states in the background of the invention that if the units 50 and 60 or 80

Applicant : Julio Casanova
Appln. No. : 10/789,858
Page : 13

and 90 were separate, the compact and secure manner of the invention of the Douglas '048 patent "would not be made use of." See lines 48-63 of column 1. Accordingly, the Douglas '048 patent teaches away from any combination where the units 50 and 60 or the units 80 and 90 are separate. Therefore, the Douglas '048 patent expressly teaches that the units must not be separate. Finally, the cover 10 or cover 70 allow the modules to be removed from within the cover. Notably, the covers 10 and 70 of the Douglas '048 patent includes a side surface open for removal of the units. As set forth in the 35 U.S.C. §112, first paragraph, rejection in the Office Action, having one side surface for removal of a unit does not comprise a situation where none of the units are able to be removed from within the cover while the cover is over all of the units. Accordingly, the Office Action implicitly admits that the covers 10 and 70 of the Douglas '084 patent could not read on claim 22.

In regard to the rejection of claim 22 over the Kumakura et al. '126 patent in view of the Källgren '920 patent, any resulting combination would not include at least two separate modules as everything in the Källgren '920 patent is connected together. Accordingly, the Källgren '920 patent does not include any elements that are separate, much less two separate modules. Moreover, the Källgren '920 patent states that the blister packs 1 can be placed in a package which is openable from one end surface or side wall, and that one blister pack can be pulled out of the package without pulling along other blister packs packed in the package. See lines 66 and 67 of column 2 and lines 1-3 of column 3. Accordingly, the Källgren '920 patent does not expressly or necessarily teach that none of the modules are able to be removed from within a cover while the cover is over at least two modules as claimed in claim 22.

Finally, a combination of all three of the references include all of the deficiencies as outlined above. Accordingly, claim 22 is in condition for allowance.

Claims 23-25, 30, 31, 33, 34, 39 and 40 depend from claim 22, and since claim 22 defines unobvious patentable subject matter as discussed above, claims 23-25, 30, 31, 33, 34, 39 and 40 define patentable subject matter. Furthermore, claim 24 states that the lid is transparent. While the Office Action states that the Kumakura et al. '126 patent includes a lid 36, the Kumakura et al. '126 patent does not disclose any transparent lid. Moreover, claim 30 states that each of the modules are identical and claim 31 states that each module includes only

Applicant : Julio Casanova
Appln. No. : 10/789,858
Page : 14

four pockets. However, any combination of the references as set forth in the Office Action would not include these features. Notably, the units having elongated articles in Fig. 6 of the Douglas '048 patent and the packs in the Källgren '920 patent have different numbers of blisters. Additionally, the Källgren '920 patent specifically teaches away from rows of blisters having the same number of blisters. See lines 50-67 of column 1 and lines 1-3 of column 2 of the Källgren '920 patent (e.g., "a stack of such blister packs [i.e., identical blister packs] will present free edges, which can easily be damaged during handling or transport"). Accordingly, there is no suggestion or motivation for combining the references that would result in the subject matter of claims 30 and 31. Accordingly, claims 23-25, 30, 31, 33, 34, 39 and 40 are in conditon for allowance.

Claims 2, 12 and 32 have been rejected under 35 U.S.C. §103(a) as being unpatentable over "the references applied above with respect to claims 1 and 22" further in view of Official Notice. First, claims 2 and 12 depend from claim 1, and since claim 1 defines unobvious patentable subject matter as discussed above, claims 2 and 12 define patentable subject matter. Second, claim 32 depends from claim 22 and therefore claim 32 defines patentable subject matter. Moreover, both claims 12 and 32 state that each module includes only five pockets. As discussed above in regard to claims 10 and 11, the prior art of record teaches away from any combination where modules include the same number of pockets. Furthermore, Applicant would like to point to the discussion in the Källgren '920 patent for reasons while each module having only five pockets would render the combination ineffective. Accordingly, claims 2, 12 and 32 are in conditon for allowance.

Claims 6-9 and 26-29 have been rejected under 35 U.S.C. §103(a) as being unpatentable "over the references applied above with respect to claims 1 and 22, respectively, further in view of Casanova WO 01/98170 A2." Applicant notes that it is difficult to determine which references are being applied in the rejection of these claims as claims 1 and 22 have been rejected over several different references. However, Applicant will assume that claims 6-9 and 26-29 are being rejected as being unpatentable over the Kumakura et al. '126 patent in view of the Douglas '084 patent, the Källgren '920 patent and the Casanova '170

Applicant : Julio Casanova
Appln. No. : 10/789,858
Page : 15

publication. However, Applicant once again requests that the next Office Action explicitly state which references these claims are being rejected over to remove any uncertainty.

Claims 6-9 and 26-29 depend from claims 1 and 22, respectively, and since claims 1 and 22 define patentable subject matter as discussed above, claims 6-9 and 26-29 define patentable subject matter. Moreover, claims 9 and 29 include a non-rotational feature. While the Office Action has referenced Miller for including this feature, there is no Miller reference that is part of a combination to reject these claims or any suggestion or motivation set forth for combining any features of a Miller reference to this combination. Accordingly, claims 9 and 29 are clearly patentable over the rejection as set forth in the Office Action. Moreover, in regard to claims 6 and 26, both of these claims include a card positioned over a lid and a second face of a module. However, in the combination as set forth in the Office Action, only a card of the Casanova '170 publication is added to the combination, such that even if there was a suggestion or motivation for combining the references as set forth in the Office Action, the resulting combination would not include any lid. Finally, Applicant submits that there is no suggestion or motivation for adding a card to the combination as set forth in the Office Action. According to the Office Action, the reason for combining the references is to make a more compact product. However, adding a card to a product would not make the resulting combination less compact. Therefore, the Office Action has appeared to include two competing motivations for combining the references and Applicant submits that with these two competing motivations, one must fail. Accordingly, Applicant submits that there is no suggestion or motivation for adding the card to the combination as set forth in the Office Action. Therefore, claims 6-9 and 26-29 are in conditon for allowance.

Claims 21 and 41 have been rejected under 35 U.S.C. §103(a) as being unpatentable over PCT Publication WO 01/98171 to Miller in view of the Källgren '920 patent, the Getz et al. '358 patent and the Douglas '048 patent. The standard for rejecting a claim as being obvious is outlined above.

Claim 21 defines a battery package comprising at least two separate modules, each module including a base having a first face and a second face, each module further including at least one pocket extending outwardly from the first face, at least one battery placed into each

Applicant : Julio Casanova
Appln. No. : 10/789,858
Page : 16

pocket and a cover placed over the at least two separate modules, two of the at least two separate modules have the first faces thereof facing each other, with at least one pocket of a first one of the two of the at least two separate modules being located between a pair of pockets of a second one of the two of the at least two separate modules, wherein the at least two separate modules will easily separate upon removal of the cover from over the at least two separate modules, wherein the cover comprises shrink wrap plastic.

Claim 41 defines a method of packaging batteries comprising providing at least two separate modules. Each module includes a base having a first face and a second face. Each module further including at least one pocket extending outwardly from the first face, placing at least one battery in each pocket and positioning the first face of at least two of the plurality of separate modules facing each other. At least one pocket of a first one of the at least two of the at least two separate modules is located between a pair of pockets of a second one of the at least two of the at least two separate modules and placing a cover over the at least two separate modules. Placing the cover comprises shrink wrapping plastic one of the at least two separate modules.

The prior art of record does not disclose or suggest the above noted features of claims 21 or 41. Specifically, there is no suggestion or motivation for combining the references as set forth in the Office Action. Notably, the Getz et al. '358 patent includes a battery strip dispenser that is positioned in a store that allows a person to take out one battery from the dispenser, remove that one battery from the strip, and purchase a single battery. However, in the combination as set forth in the Office Action, the Office Action appears to take the container for holding the strips that allow for individual sale of batteries and place the entire thing within a shrink wrap package. Therefore, a person would not be able to purchase a single battery from the combination as set forth in the Office Action without destroying the holder for all of the batteries by removing a shrink wrap. Finally, Applicant submits that any combination of these references would not include at least two separate modules, or at least two separate modules that will easily separate upon removal of a cover from over the at least two separate modules as discussed above as any of these references include any of these

Applicant : Julio Casanova
Appln. No. : 10/789,858
Page : 17

features and the Källgren '920 patent and the Douglas '084 patent specifically teach away from any such combination. Accordingly, claims 21 and 41 are in conditon for allowance.

Claims 21 and 41 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Kumakura et al. '126 patent in view of the Källgren '920 patent, the Getz et al. '358 patent and the Douglas '048 patent. The standard for rejecting a claim as being obvious is outlined above. The subject matter of claims 21 and 41 are outlined above.

The prior art of record does not disclose or suggest the above noted features of claims 21 or 41. Specifically, there is no suggestion or motivation for combining the references as set forth in the Office Action. Notably, the Getz et al. '358 patent includes a battery strip dispenser that is positioned in a store that allows a person to take out one battery from the dispenser, remove that one battery from the strip, and purchase a single battery. However, in the combination as set forth in the Office Action, the Office Action appears to take the container for holding the strips that allow for individual sale of batteries and place the entire thing within a shrink wrap package. Therefore, a person would not be able to purchase a single battery from the combination as set forth in the Office Action without destroying the holder for all of the batteries by removing a shrink wrap. Finally, Applicant submits that any combination of these references would not include at least two separate modules, or at least two separate modules that will easily separate upon removal of a cover from over the at least two separate modules as discussed above as any of these references include any of these features and the Källgren '920 patent and the Douglas '084 patent specifically teach away from any such combination. Accordingly, claims 21 and 41 are in conditon for allowance.

Claims 15-18 and 35-38 have been withdrawn from the present application. Applicant respectfully requests rejoinder of these claims along with allowance of the claims from which they depend. Accordingly, Applicant submits that claims 15-18 and 35-38 are in conditon for allowance.

Applicant : Julio Casanova
Appln. No. : 10/789,858
Page : 18

All pending claims 1-41 are believed to be in conditon for allowance, and a Notice of Allowability is therefore earnestly solicited.

Respectfully submitted,

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Date

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